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THE ELEMENTS OF JURISPRUDENCE. By THOMAS ERSKINE HOLLAND, D.C.L., LL.D. Fifth Edition. Pp. xix, 390. Oxford: Clarendon Press, 1890.

THIS work, at its first appearance in 1880, was widely read in all English speaking countries. It was the first serious attempt in their tongue to treat the subject in a systematic and scholarly way. Austin's lectures were but fragments of material for a system; Sir Henry Maine had only covered special topics; but it remained for Professor Holland to explain the Science of Jurisprudence scientifically, from the Anglo-American standpoint. That he did it well the call for five editions in ten years is the best proof.

The present edition makes a volume larger than the first by about a fourth, and the new matter has been added with excellent judgment. Several of the chapters have been substantially rewritten, but rather the better to sustain the author's previous positions, than to vary them. Of this, that on the "Sources of Law" is a good example. Religion is now introduced as one of these, and its influence on the Government of British India is referred to with effect, as showing how it may force the adoption of personal law rather than territorial law, as the rule of judicial decision. "Adjudication" receives a much fuller and more satisfactory treatment, particularly with reference to the reasons that have made the continental judges pay it so little respect.

"The continental view is an inheritance from the law of Rome; for although Cicero enumerates '*res indicatæ*' among the sources of law and the Emperor Severus gave binding force to the *auctoritas rerum perpetua similiter indicatarum*, the contrary principle was firmly established by the Constitution of Justinian. The codes of Prussia and Austria expressly provide that judgments shall not have the force of law, and although the codes of France, Italy and Belgium are silent on the point, the rule in all these countries is substantially the same, viz: that previous decisions are instructive but not

authoritative ; subject to certain special provisions of a strictly limited scope."

The rescript of Severus, referred to in this passage, it may be observed in passing, was confined to ambiguities in statutes (*in ambiguitatibus, quæ ex legibus profiscuntur. D. 1. 3. 38.*) In the discussion of "Equity," as a source of law, its constant change and development is strongly insisted on, and Jessel's remark, as Master of the Rolls, is quoted with approval, that equitable doctrines "are progressive, refined, and improved ; and if we want to know what the rules of equity are, we must look, of course, rather to the more modern than to the more ancient cases."

Professor Holland refers freely to American authorities and speaks with special commendation of Dr. Wharton's treatise on Negligence, Holmes on the Common Law, and Woolsey on Divorce. In quoting from a recent opinion by Judge Holmes in the Massachusetts' Reports, we observe that he describes it (p. 98) as a "New York case." The greater diversities of condition and circumstances existing in this country, as compared with those to be seen in England, have given our courts the opportunity to advance the law in many directions of late years, and he notes sometimes not without apparent surprise and distrust, many positions taken here, not yet reached on the other side of the Atlantic. In regard, for instance, to marital rights *in rem*, after stating (p. 150) that of the husband that no man shall deprive him of his wife's society or affection, he adds : "An analagous right might, of course, be conceivably recognized as vested in the wife, and is said to have been recognized in recent American cases." In fact, the doctrine has been repeatedly affirmed here, not only in the cases to which he refers (evidently without having read them) but in that of *Foot v. Card. 58 Conn. Rep. 1.*

We should judge from the omission to refer to them in the chapters on Public and International Law, that the draft codes prepared by the Congress of Montevideo, 1889, and favorably considered at the Washington International American Conference of 1889-90, had not come under Professor Holland's

eye. They are now readily accessible in Government publications, and constitute a step of the first importance in the progress of international jurisprudence towards fixity and form.

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LA MONNAIE ET LE BIMETALLISME INTERNATIONAL. Par EMILE DE LAVELEYE. Pp. xviii, 347. Paris : Garnier, Baillière et Cie, 1891.

THIS is the latest addition to Laveleye's long list of writings on bimetallism. His earlier contributions to the literature of the subject appeared in the *Revue des deux Mondes*, the *Revue Suisse*, the *Journal des Economistes*, the *Revue de Belgique*, and the *Contemporary Review*, and as independent works under the titles of "*La Question d'Or*," (1860), "*Le Marché Monétaire et ses Crises Depuis, 50 ans*" (1865), "*La Monnaie Bimétallique*" (1876), "*La Question Monétaire*" (1880), "*Le Bimétallisme International*" (1881), "*La Question Monétaire en Belgique en 1889*" (1890), etc. These are all familiar to a student of finance, and some of them have appeared in English translations. This latest work does not add much to the author's previous writings, and cannot lay claim to great originality. Constant reference is made to the other authorities in monetary matters, both monometallists and bimetallists—Sœtbeer, Palgrave, Sauerbeck, Giffen, D. A. Wells, Leroy-Beaulieu, S. D. Horton, Cernuschi, and Lexis. From these and from the reports of the English and American Commissions the statistical material is largely borrowed.

It is unnecessary to say that the book is an extended argument for international bimetallism. As usual, it begins with the demonetization of silver by Germany in the seventies, and its influence on the silver market, and indirectly on the money market. To quote from the preface : "Germany demonetizes silver and forces the other European governments to cease coining silver ; the value of silver falls ; a part of the wealth of the holders of silver throughout the world is destroyed ; the Hindoo peasant loses 20 per cent. of his hoarded wealth ;